

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7308**

**BILL NUMBER:** HB 1395

**NOTE PREPARED:** Jan 10, 2011

**BILL AMENDED:**

**SUBJECT:** Local Government Issues.

**FIRST AUTHOR:** Rep. Wesco

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Township Elimination:* The bill provides that in a township containing territory within a municipality that has a population of at least 10,000, after December 31, 2012: (1) the township may continue to exercise the township's powers and duties only within the territory of the township that is unincorporated or is within a municipality that is located in the township and has a population of less than 10,000; and (2) within each municipality that has a population of at least 10,000 or within the consolidated city, the municipal executive shall exercise the powers and duties otherwise granted to the township trustee, and the municipal fiscal and legislative body shall exercise the powers and duties otherwise granted to the township board.

*Townships in Municipalities:* The bill specifies that in the case of a township that has all of its territory within any municipality having a population of at least 10,000 or a county having a consolidated city, the offices of township trustee, township board, and township assessor (if any) of such a township are abolished on January 1, 2013.

*Consolidated City:* It provides that after December 31, 2012, in a county having a consolidated city, salaries of small claims court judges shall be established by ordinance of the city-county council and shall be paid by the county in the same installments as judges of the superior court in the county.

*Residency:* It provides that for elections in 2012 and thereafter, a candidate for the office of township board or township trustee must reside in the area of the township that is in unincorporated territory or is within a municipality that is located in the township and has a population of less than 10,000.

*Mergers:* The bill also provides that a township with a population of less than 1,500 must before January 1,

2014, merge with another township government under the township merger statutes.

*Maximum Permissible Property Tax Levies:* It requires the Department of Local Government Finance (DLGF) to adjust the maximum permissible property tax levies, maximum permissible property tax rates, and budgets of: (1) each township from which powers, duties, and obligations are transferred; and (2) each municipality or county to which powers, duties, and obligations are transferred; as the DLGF determines necessary to account for the transfers of those duties, powers, and obligations.

*Township Assistance Levy:* The bill provides that under certain conditions, an additional township assistance levy shall be imposed in 2013 and thereafter on property within the unincorporated territory of the township and within municipalities located in the township and having a population of less than 10,000. It also specifies that if such a levy is imposed, the revenue is transferred to municipalities having a population of at least 10,000 within the township to be used for township assistance purposes.

*Township Government:* The bill makes the following changes concerning township government:

- (1) It provides that if a trustee does not accept a completed application for township assistance or does not grant or deny a completed application for township assistance within the period required by statute, the application is considered denied, and the denial may be appealed to the board of county commissioners.
- (2) It provides that after December 31, 2014, the total compensation and benefits paid to a township board member may not exceed \$5,000 per year.
- (3) It specifies that each township office must include the address and phone number of the township office in at least one local telephone directory.
- (4) It requires all township trustees to maintain a telephone answering service and respond to inquiries within a specified time.
- (5) It requires a public hearing of a township legislative body to be held in a public place if one is available in the township.
- (6) It provides that if the township board fails to adopt township standards for two years, the DLGF may not approve the township budget and levy, and township board members may not receive any salary until the standards are adopted.
- (7) It provides that if the township trustee fails to file the township standards with the board of county commissioners for two years, the DLGF may not approve the township's budget and levy and the township trustee may not receive any salary until the standards are filed.
- (8) It provides that a township trustee may receive rental payments from the township only for use of office space located in the trustee's private residence if the space is used exclusively for conducting official township business and the rental payments do not exceed the rate charged for comparable commercial office space.

The bill specifies that the annual report of a local governmental unit must be filed with the State Board of Accounts not later than March 1 of each fiscal year.

*Nepotism:* The bill provides that an individual who is an immediate family member of an officer or employee of a political subdivision may not be employed by the political subdivision in a position in which the individual would have a direct supervisory or subordinate relationship with the officer or employee who is the individual's immediate family member. It specifies that this provision does not require the termination or reassignment of a township employee from a position held by that individual before January 1, 2011.

**Effective Date:** July 1, 2011; January 1, 2013.

**Explanation of State Expenditures:** *Department of Local Government Finance (DLGF):* The bill is expected to have minimal fiscal impact for the DLGF when reviewing township budgets, tax rates, and tax levies in order to consider the ending balance, and to receive appeals from townships.

*Penalty Provision:* A township trustee would be subject to being convicted for perjury, a Class D felony, for falsely certifying that the township board has adopted township assistance standards and that the standards were filed with the county commissioners. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

*Background - State Board of Accounts:* Currently, the SBOA prepares an annual report concerning the townships using information provided to the SBOA by the township trustee. However, the SBOA indicates that 100 townships (10%) did not file the required 2009 report. The SBOA also prepares a biennial examination report of the townships

**Explanation of State Revenues:** *Financial Report Reporting Date:* Every local government unit, entity, or instrumentality is required to submit a financial report to the State Examiner. The penalty for failing to make, verify, and file with the State Examiner is a Class B infraction and forfeiture of office. The date for making the report changes from 60 days after the end of the fiscal year to March 1 of each fiscal year under the bill.

There are no data to indicate how the date change will impact the number of reports outstanding. The maximum judgment for a Class B infraction is \$1,000, which would be deposited in the state General Fund.[In 2010, for counties, townships, cities and towns, libraries, and special districts subject to this provision, there were 373 (16.3%) that did not submit a report, 1,475 (64.6%) that submitted the report on time, and 435 (19.1%) that submitted the report late. The State Board of Account (SBOA) does not take action against local officials due to technical problems that the SBOA is in the process of promulgating rules to address.]

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

**Explanation of Local Expenditures:** The bill will have indeterminate fiscal impact on township and municipal government with some provisions potentially adding cost and others potentially creating cost-savings.

The nepotism prohibitions could impact costs if employees must be terminated or reassigned. Additionally, compensation costs could be impacted in cases where family members are providing services at a different rate than their replacements.

The requirement for a telephone answering service may minimally increase costs, as may the requirement to list each expenditure reimbursing an executive for use of the executive's private residence and making comparisons between the square footage cost and that of commercial property within the township or the county seat. Adopting annual standards for township assistance will add minimal costs as well.

Additional appeals may be made to the county board of commissioners if applications not acted on by the township trustee within the 72-hour time period for emergency applications are considered denied by function of law. This could increase the costs for hearings at the county-level, depending on the number of residents denied township assistance under this provision.

The bill could result in cost-savings for certain townships where township board members are paid more than \$5,000 annually beginning in 2015. [With data available from 563 townships, the median salary for a township board member is \$550, ranging from \$100 to \$15,750. There are 15 townships where the board member salary exceeds \$5,000.]

Additionally, the amount of rent paid for office space in executive's residences could decrease, if the township has been paying more than the cost of comparable commercial space. [There are no data available to indicate how many townships would be effected by this change.]

Cost saving may accrue from any management efficiencies created by a municipality administering township government with a township or a portion of a township, or by two townships with population under 1,500 merging. While savings will accrue to township residents, the municipal fiscal body, which fixes the compensation of officers, may increase compensation for municipal legislative and fiscal bodies or municipal executives that undertake additional responsibilities from the township boards and trustees. Also, the bill establishes a new position in certain circumstances.

The municipal executive of a municipality that administers a township or a portion of a township would appoint an individual to administer township assistance within the municipality. The township assistance administrator would have the same powers and duties and privileges and immunities as a township trustee.

There are 13 township assessors in Indiana, all located in townships that would be abolished or have duties that would transfer to a municipality, thereby transferring township assessor duties to the county assessor. If the county assessor can provide the assessor services more efficiently than the township assessors, the taxpayers in the township would accrue savings and the county may incur some additional personnel expense to meet the increased workload.

*Marion County Small Claims Courts:* The judges of the small claims court will continue to be elected to a four-year term of office. The county will provide courtrooms and offices, and furnish supplies, furniture, and equipment and provide maintenance and upkeep.

*Judge Salaries:* Judge salaries are to be set by the city-county council, and paid by the county. The county fiscal body will set the salary of as many small claims court clerks as are necessary to operate efficiently and adequately serve the citizens, with the approval of the city-county council. Current law and the bill set a floor of \$5,600 for clerk salaries.

*Penalty Provision:* If more offenders could be detain in county jails prior to trial, costs for incarceration could increase for county jails. The average daily cost for incarceration in a county jails is \$44.

*Background:*

Item	Township Description	Township Powers and Duties	Municipality of at least 10,000 Population Powers and Duties	Number of Townships Affected
1.	Located in at least one municipality of at least 10,000 population. Also has an unincorporated area or includes a municipality of less than 10,000 population. Does not include Marion County.	Only in unincorporated areas and areas of municipality of less than 10,000 population	In area of municipality of at least 10,000.  Municipal executive takes duties of township trustee; Legislative and fiscal body take responsibilities of township board.	151
2.	Located in Marion County or wholly located in one or more municipalities of at least 10,000 population. Does not include townships with an unincorporated area or in a municipality of less than 10,000 population.	Office of township trustee, township board, and township assessor are abolished.	In area of township:  Municipal executive takes duties of township trustee; Legislative and fiscal body take responsibilities of board.	27
3.	Township population of less than 1,500.	Merge with another township.		398
Names of townships affected by the bill are available from LSA.				

Townships that transfer duties and powers to municipalities do so on January 1, 2013, and those with population under 1,500 must merge before January 1, 2014. There are six townships that have a population less than 1,500, and would also qualify under item 1, and one township under 1,500 population that would also qualify under item 2.

**Explanation of Local Revenues:** The annual appropriation and annual tax levy for a township may be affected by the bill, if the township board fails to adopt township assistance standards or a township trustee fails to file two copies of the budget with the county auditor. In such a situation, the township's annual appropriation and annual tax levy may not be approved affecting the operations of the township.

*Marion County Small Claims Court Fees:* Court fees will remain unchanged, but will be paid to the county general fund, township small claims courts account. Fees collected for court administration and judicial salaries are to be deposited in the county general fund in an account for each small claims court. At the end of the fiscal year, any funds remaining in the account may be used for public safety programs as determined by the city-county council. After December 31, 2014, 40% of the court administration fees are to be used for the operation of small claims courts. In 2009, Marion County small claims courts generated a total of \$4.5

M, including \$1.5 M in state funds, \$123,000 in county funds, and \$2.9 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2009, Marion County small claims courts received \$574,000 for serving process by certified mail and almost \$1.1 M for service of process by personal service. These amounts are to be paid directly to the constables.

*Penalty Provision and Financial Report Reporting Date:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

*Levies and Budgets:* Under this bill, the DLGF would adjust the maximum levies, budgets, and tax rates of townships and municipalities that are exchanging duties. There should be no change in the overall total amounts after adjustment.

**State Agencies Affected:** DLGF, SBOA.

**Local Agencies Affected:** Counties, municipalities, and townships.

**Information Sources:** Local Government Database.

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